

AMENDED IN SENATE AUGUST 18, 2000

AMENDED IN SENATE AUGUST 8, 2000

AMENDED IN SENATE JUNE 14, 2000

AMENDED IN ASSEMBLY APRIL 27, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

## ASSEMBLY BILL

**No. 2300**

**Introduced by Assembly Member Florez**

February 24, 2000

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An act to add Section 867.5 to the Code of Civil Procedure, to amend ~~Section 6586.5~~ *Sections 6586.5 and 12332* of, and to add Sections 6586.7, 6599, and 6599.2 to, the Government Code, relating to joint powers agreements.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2300, as amended, Florez. Joint powers authority.

(1) Existing law establishes procedures for a public agency to bring an action in superior court for the judicial validation of specified matters.

This bill would ~~prohibit~~ *allow an answering party to file an action within 30 days after the dismissal of a validating action by the public agency unless the court finds that the rights of an answering party to contest the validity of the matter at issue would not be impaired, or the public agency has formally reseinded the action on the matter subject to validation and would prohibit the issuance of bonds after the dismissal unless the bonds are preauthorized pursuant to the bill.*

(2) Existing law authorizes public agencies to enter into joint exercise of power agreements to jointly exercise any power common to the contracting agencies and to issue bonds pursuant to the Marks-Roos Local Bond Pooling Act of 1985. Among other conditions *for the issuance of bonds*, existing law requires that the local agency, within whose boundaries the capital public improvement to be financed by the bonds is to be located, publish notice of a hearing in a newspaper of general circulation.

This bill would *impose those conditions on the authorization rather than the issuance of bonds*, would exclude certain bond issuances from this requirement, and would also require that a notice containing prescribed information be sent by certified mail at least 5 days prior to the hearing to the Attorney General and the California Debt and Investment Advisory Commission.

(3) Existing law establishes a judicial procedure for court validation of matters undertaken by a public agency.

This bill would require that, in an action for validation filed by a joint powers authority with respect to the Marks-Roos Local Bond Pooling Act of 1985, the Attorney General and the Treasurer shall be served a copy of the complaint and answer filed by the respective parties. The bill would provide that the Attorney General and the Treasurer are interested persons for purposes of such an action. The bill would require that a resolution adopted by an authority authorizing bonds or the issuance of bonds be sent to the Attorney General and the California Debt and Investment Advisory Commission and would authorize the Attorney General and Treasurer to bring an action to determine the validity of bonds or the issuance of bonds under the act.

(4) *Existing law designates the Treasurer as an elected representative of the state to approve the issuance of bonds, notes, or other evidences of indebtedness, issued by or on behalf of the state, to the extent this approval is required by federal tax law.*

*This bill would designate the Attorney General as that representative if the Treasurer is unavailable and the Governor or his or her designee requests this approval.*



Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature hereby finds and  
2 declares that the municipal finance market in California  
3 is a matter of great public importance. Thus, it is of great  
4 public importance to ensure that the California  
5 municipal bond market remains a viable means of  
6 financing needed public improvements for all levels of  
7 government in the state. The Legislature enacts this act  
8 with the intent to protect the integrity of that market by  
9 prohibiting certain risky practices in the issuance of  
10 bonds. The Legislature further enacts this act with the  
11 intent to protect the public's interest, including  
12 protecting the public from the potential or actual  
13 confusion or deception in the issuance and purchase of  
14 those bonds.

15 SEC. 2. Section 867.5 is added to the Code of Civil  
16 Procedure to read:

17 ~~867.5. (a) Notwithstanding Section 581, an action~~  
18 ~~brought by a public agency pursuant to this chapter may~~  
19 ~~not be dismissed by the public agency except by noticed~~  
20 ~~motion after any party has answered. The court shall not~~  
21 ~~grant the motion unless it finds that the rights of an~~  
22 ~~answering party to contest the validity of the matter at~~  
23 ~~issue would not be impaired.~~

24 *867.5 (a) In the event that an action is brought by a*  
25 *public agency pursuant to this chapter, and that public*  
26 *agency later dismisses the action after any party has*  
27 *answered, then, notwithstanding Section 863, the party*  
28 *that answered may file an action pursuant to this chapter*  
29 *within 30 days after the public agency's dismissal was filed*  
30 *by the court.*

31 (b) Subdivision (a) is not applicable to a case in which  
32 a public agency has by formal act rescinded the action on  
33 the matter subject to validation.

34 SEC. 3. Section 6586.5 of the Government Code is  
35 amended to read:

6586.5. (a) Notwithstanding Section 6587, an authority, or any entity acting on behalf of or for the benefit of an authority, may not ~~issue~~ *authorize* bonds to construct, acquire, or finance a public capital improvement except pursuant to Article 1 (commencing with Section 6500), unless all of the following conditions are satisfied with respect to each capital improvement to be constructed, acquired, or financed:

(1) The authority reasonably expects ~~on the date of issuance of the bonds~~ that the public capital improvement is to be located within the geographic boundaries of one or more local agencies of the authority that is not itself an authority.

(2) A local agency that is not itself an authority, within whose boundaries the public capital improvement is to be located, has approved the financing of the public capital improvement and made a finding of significant public benefit in accordance with the criteria specified in Section 6586 after a public hearing held by that local agency within each county or city and county where the public capital improvement is to be located after notice of the hearing is published once at least five days prior to the hearing in a newspaper of general circulation in each affected county or city and county.

(3) A notice is sent by certified mail at least five business days prior to the hearing held pursuant to paragraph (2) to the Attorney General and to the California Debt and Investment Advisory Commission. This notice shall contain all of the following information:

(A) The date, time, and exact location of the hearing.

(B) The name and telephone number of the contact person.

(C) The name of the joint powers authority.

(D) The names of all members of the joint powers authority.

(E) The name, address, and telephone number of the bond counsel.

(F) The name, address, and telephone number of the underwriter.

(G) The name, address, and telephone number of the financial adviser, if any.

(H) The name, address, and telephone number of the legal counsel of the authority.

(I) The prospective location of the public capital improvement described by its street address, including city, county, and ZIP Code, or, if none, by a general description designed to inform readers of its specific location, including both the county and the ZIP Code that covers the specific location.

(J) A general functional description of the type and use of the public capital improvement to be financed.

(K) The maximum aggregate face amount of obligations to be issued with respect to the public capital improvement.

(b) Paragraph (3) of subdivision (a) does not apply to bonds:

(1) Issued pursuant to the Community Redevelopment Law, Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code.

(2) To finance transportation facilities and vehicles.

(3) To finance a facility that is located within the boundaries of an authority, provided that the authority that issues those bonds consists of any of the following:

(A) Local agencies with overlapping boundaries.

(B) A county and a local agency or local agencies located entirely within that county.

(C) A city and a local agency or local agencies located entirely within that city.

(4) To finance a facility for which an authority has received an allocation from the California Debt Limit Allocation Committee.

(5) Of an authority that consists of no less than ~~250~~ 100 local agencies and the agreement that established that authority requires the governing body of the local agency that is a member of the authority in whose jurisdiction the facility will be located to approve the facility and the issuance of the bonds.

(c) This section and Section 6586.7 do not apply to bonds issued for any of the following purposes:

1 (1) To finance the undergrounding of utility and  
2 communication lines.

3 (2) To finance, consistent with the provisions of this  
4 chapter, facilities for the generation or transmission of  
5 electrical energy for public or private uses and all rights,  
6 properties, and improvements necessary therefor,  
7 including fuel and water facilities and resources.

8 (3) To finance facilities for the production, storage,  
9 transmission, or treatment of water, recycled water, or  
10 wastewater.

11 (4) To finance public school facilities.

12 (5) To finance public highways located within the  
13 jurisdiction of an authority that is authorized to exercise  
14 the powers specified in Chapter 5 (commencing with  
15 Section 31100) of Division 17 of the Streets and Highways  
16 Code, provided that the authority conducts the noticed  
17 public hearing and makes the finding of significant public  
18 benefit in accordance with this section.

19 (d) For purposes of this section, a local agency does not  
20 include a private entity.

21 SEC. 4. Section 6586.7 is added to the Government  
22 Code, to read:

23 6586.7. (a) A copy of the resolution adopted by an  
24 authority authorizing bonds or any issuance of bonds, or  
25 accepting the benefit of any bonds or proceeds of bonds,  
26 except bonds issued or authorized pursuant to Article 1  
27 (commencing with Section 6500), or bonds issued for the  
28 purposes specified in subdivision (c) of Section 6586.5,  
29 shall be sent by certified mail to the Attorney General and  
30 the California Debt and Investment Advisory  
31 Commission not later than five days after adoption by the  
32 authority.

33 (b) This section does not apply to bonds:

34 (1) Specified in subdivision (c) of Section 6586.5.

35 (2) Issued pursuant to the Community  
36 Redevelopment Law, Part 1 (commencing with Section  
37 33000) of Division 24 of the Health and Safety Code.

38 (3) To finance transportation facilities and vehicles.

(4) To finance a facility that is located within the boundaries of an authority, provided that the authority that issues those bonds consists of any of the following:

(A) Local agencies with overlapping boundaries.

(B) A county and a local agency or local agencies located entirely within that county.

(C) A city and a local agency or local agencies located entirely within that city.

(5) To finance a facility for which an authority has received an allocation from the California Debt Limit Allocation Committee.

(6) Of an authority that consists of no less than 250 local agencies and the agreement that established that authority requires the governing body of the local agency that is a member of the authority in whose jurisdiction the facility will be located to approve the facility and the issuance of the bonds.

SEC. 5. Section 6599 is added to the Government Code, to read:

6599. (a) In an action filed pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure to determine the validity of any matter of an authority governed by this article, the authority and any interested person shall serve the Attorney General and the Treasurer with a copy of the complaint filed by the respective party by the first day of the publication of summons as required by Section 861 of the Code of Civil Procedure. A court may render no judgment in the matter or grant other permanent relief to any party except on proof of service of the Attorney General and the Treasurer as required by this section.

(b) The Attorney General and the Treasurer are each interested persons pursuant to an action filed pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure to determine the validity of any authorizing bonds or the issuance of bonds.

(c) Any authority that dismisses a validation action by formal act and withdraws the resolution may not issue bonds to construct, acquire, or finance a public capital improvement, except pursuant to Article 1 (commencing

1 with Section 6500), unless the authority thereafter  
2 ~~complies with the requirements of this chapter.~~  
3 *reauthorizes the issuance of the bonds and thereafter, if*  
4 *applicable, complies with Sections 6586.5 and 6586.7.*

5 SEC. 6. Section 6599.2 is added to the Government  
6 Code, to read:

7 6599.2. (a) Notwithstanding Sections 863 and 869 of  
8 the Code of Civil Procedure, the Attorney General or the  
9 Treasurer may jointly or separately file an action  
10 pursuant to Chapter 9 (commencing with Section 860) of  
11 Title 10 of Part 2 of the Code of Civil Procedure at any  
12 ~~time up to 55 days after the receipt of the notice required~~  
13 ~~by Section 6586.7.~~

14 ~~(b) An authority, or any entity acting on behalf of or~~  
15 ~~for the benefit of an authority, may not issue any bonds~~  
16 ~~that are subject to an action filed pursuant to Chapter 9~~  
17 ~~(commencing with Section 860) of Title 10 of Part 2 of the~~  
18 ~~Code of Civil Procedure until after the expiration of 10~~  
19 ~~days following the entry of judgment validating the~~  
20 ~~resolution or the authorization to sell bonds or the~~  
21 ~~resolution accepting the benefit of any bonds or proceeds~~  
22 ~~of bonds. This subdivision does not prohibit the issuance~~  
23 ~~of any bonds that are subject to an action filed pursuant~~  
24 ~~to Chapter 9 (commencing with Section 860) of Title 10~~  
25 ~~of Part 2 of the Code of Civil Procedure if no other party~~  
26 ~~responded to the action. time up to 55 days after notice~~  
27 ~~required by Section 6586.7 is mailed by certified mail to~~  
28 ~~the Sacramento offices of both the Attorney General and~~  
29 ~~the Treasurer.~~

30 SEC. 7. Section 12332 of the Government Code is  
31 amended to read:

32 12332. The Treasurer is designated as an elected  
33 representative of the state to approve the issuance of  
34 bonds, notes, or other evidences of indebtedness, issued  
35 by or on behalf of the state, to the extent this approval is  
36 required by federal tax law. *In the event the Treasurer*  
37 *is unavailable and the Treasurer's office notifies the issuer*  
38 *of this fact, at the request of the Governor or his or her*  
39 *designee, the Attorney General is designated as an*  
40 *elected representative of the state who may approve the*

1 *issuance upon request by the issuer, to the extent this*  
2 *approval is required by federal tax law.*

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